

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

Crl.MC.No. 829 of 2007()

CP.222/2006 of JUDL.MAGISTRATE OF FIRST CLASS, NADAPURAM
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PETITIONERS/ACCUSED:

1. HASSAN O.V., S/O. ABDULA
MOOLAMPARAMBATH HOUSE, CHEKKIAD
KOZHIKODE DIST.
2. NISAR THANGAL, S/O. POOKOYA THANGAL
KIZHAKKAYIL, VELLUR AMSOM
P.O. NADAPURAM.
3. MUNEEER, S/O. ABOOBACKER, VACHAL
CHEKKIAD, KOZHIKODE DIST.
4. ISMAYIL, KUNHAMMAD,
MATTAMMAL, CHEKKIAD, KURUVANTHERY.
5. AZEEZ, S/O. KUNHAMMAD
OMBATHARENTAVIDA, CHEKKIAD
KURUVANTHERY.
6. MOIDU, S/O. KUNHABDULLA,
PUTHIYEDATH CHALIL, CHEKKIAD, DO.
7. NASAR, S/O. MOIDU,
KORUMBATH, CHEKKIAD, KOZHIKODE DIST.

BY ADV. SRI.SUNNY MATHEW

RESPONDENT/COMPLAINANT:

STATE OF KERALA, THROUGH THE SUB INSPECTOR
OF POLICE, VALAYAM POLICE STATION
REEP. BY THE PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKAULAM.

BY PUBLIC PROSECUTOR SRI.S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION
ON 22/03/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

R. BASANT, J.

Crl.M.C.No. 829 of 2007

Dated this the 22nd day of March, 2007

ORDER

The petitioners are accused in a prosecution, inter alia, under Sections 395 and 308 I.P.C. The case against them is pending as C.P.No. 222 of 2006. The petitioners did not appear before the learned Magistrate. According to them, they were not aware of the pendency of the case. Non-bailable warrant has been issued against them. The petitioners, in these circumstances, want to surrender before the learned Magistrate. They apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

2. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. The learned Magistrate, needless to say, must consider such cause on merits and pass appropriate orders. I have no reason to assume that the learned

Magistrate would not do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in Alice George v. Dy.S.P. of Police (2003 (1) KLT 339).

3. This CrI.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself, unless there are compelling reasons.

(R. BASANT)
Judge

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